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*Attorneys for BNSF Railway Company*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION**

BNSF RAILWAY COMPANY, on  
behalf of THE UNITED STATES OF  
AMERICA

Plaintiff,

vs.

THE CENTER FOR ASBESTOS  
RELATED DISEASE, INC.,

Defendant.

Civil Action No.: CV-19-40-M-DLC

**RELATOR’S AMENDED  
EXHIBIT LISTS**

Relator, BNSF Railway Company (“BNSF”), by and through its attorneys of record, Knight Nicastro MacKay, LLC, files its Amended Exhibit Lists – Will Offer (**Exhibit A**) and May Offer (**Exhibit B**).

DATED this 9th day of June, 2023.

KNIGHT NICASTRO MACKAY, LLC

By: /s/ W. Adam Duerk  
W. Adam Duerk  
*Attorneys for BNSF Railway Company*

**CERTIFICATE OF SERVICE**

I certify on this 9th day of June, 2023, a copy of the foregoing document was served upon the following persons by the following means:

<u>1-3</u>	CM/ECF
<u>      </u>	Mail
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<u>      </u>	Fax
<u>      </u>	Email

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KNIGHT NICASTRO MACKAY, LLC

By: /s/ W. Adam Duerk  
W. Adam Duerk  
Attorneys for BNSF Railway Company

## **EXHIBIT A**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION2432

BNSF RAILWAY COMPANY,  
On behalf of THE UNITED STATES  
OF AMERICA,

Relator,

v.

THE CENTER FOR ASBESTOS  
RELATED DISEASE, INC.,

Defendant.

Cause No. CV-19-40-M-DLC  
Hon. Dana L. Christensen

**RELATOR’S AMENDED EXHIBIT LIST – WILL OFFER**

No.	Description	Δ’s Objection (Y or N)	Date Offered	Date Reserved	Date Admitted	Refused/ WD
1	Medicare Pilot Program Docs	N				
2	Catherine (Sullivan) Clarke – Patient Packet	N				
2A	Catherine (Sullivan) Clarke – Medical Records	N				
3	Done Tab Disability Docs	N				
4	Work Comp Disability Docs	N				
5	Pending Tab Disability Docs	Y				
6	EHH Checklists Completed at CARD	Y				
7	Denied EHH Checklists Completed by CARD	Y				
8	Pilot Auto Report 1	N				
9	Attorney Donations E-Mail	N				
10	Attorney Referrals E-Mail	N				

No.	Description	Δ's Objection (Y or N)	Date Offered	Date Reserved	Date Admitted	Refused/ WD
11	Grant Report Dx Diff.	N				
12	2018.03.06 McGarvey to CARD Requesting Patrick W. dxd	N				
13	Patrick W. – Patient Packet	N				
14	ATS Criteria and Database Documents	N				
15	CARD Newsletter	N				
16	Terry S. – Patient Packet	N				
17	Daniel Q. – Patient Packet	N				
18	Old Cheat-Sheet	N				
19	Current Cheat-Sheet	N				
20	Libby Screening Dataset query page _7-29-2010	N				
21	Libby Screening Dataset query page for Patrick W. ID 657827_3-28-2012	N				
22	Libby Screening Dataset query page for Patrick W. ID 657827_6-11-2015	N				
23	Joey S. – Patient Packet	N				
24	Kelli C. – Patient Packet	N				
25	Sandy R. – Patient Packet	N				
26	Humana Patient Report and Communications	N				
27	Medicare Part D Prescriber Look-up on Charles Black, MD	Y				

No.	Description	Δ's Objection (Y or N)	Date Offered	Date Reserved	Date Admitted	Refused/ WD
28	ProPublica Prescriber Checkup on Providers in Libby, Montana	N				
29	ProPublica Prescriber Checkup on Prescribers of Fentanyl in Montana	Y				
30	ProPublica Prescriber Checkup on Prescribers of Morphine Sulfate ER in Montana	Y				
31	CDC Prescriber Map Libby MT 2014-2019	Y				
32	David H. – Patient Packet	N				
33	Jason Clark – Patient Packet	N				
33A	Jason Clark – Medical Records	N				
34	<i>The Apical Cap</i> , McLoud et al., AJP 137:299-306, Aug. 1981	Y				
35	James K. – Patient Packet	N				
35A	James K. – Chest CT 6.11.2013	N				
36	Lenora R. – Patient Packet	N				
37	Kerry B. – Patient Packet	N				
38	Montana Prescription Drug Registry Overview	N				
39	Calculating Total Daily Dose of Opioids	N				
40	Marilyn E. – Patient Packet	N				
41	Jason Clark – Prescription Records	N				
42	Daniel Q. – Prescription Records	N				

No.	Description	Δ's Objection (Y or N)	Date Offered	Date Reserved	Date Admitted	Refused/ WD
43	Definition of Controlled Substance Schedules	N				
44	Medicare's Medical Necessity Documentation	N				
45	Sondra B. – Patient Packet	N				
46	Judy P. – Patient Packet	N				
47	David S. – Patient Packet	N				
48	Overall Screening Program at CARD, Morrisette and McNew, 08.1702021	N				
49	CARD's Vision for Education & Outreach, Morrisette and McNew, 08.17.2021	N				
50	CARD's Final Grant Report re Grant Number 5U61TS000179 04	N				
51	Pain Management Protocol for ERMCC Family Practice	N				
52	Jay J. – Patient Packet	N				
53	Tonsie J. –Patient Packet	N				
54	CARD Donation, Aug. 2019 (Libby Montana News)	N				
55	CARD Medicare List of Billed Encounters from 1.1.2010 to 11.15.2021	N				
56	CARD's Master Data Sheet regarding patient visits for Charles B. Black	N				
57	Libby Doctor's License Suspended for Overprescribing, Dec. 27, 2015	N				
58	Keith C. – Patient Packet	N				



No.	Description	Δ's Objection (Y or N)	Date Offered	Date Reserved	Date Admitted	Refused/ WD
59	Federal Law Regarding Scripts for Opioids	Y				
60	Bozeman doctor sentenced, fined for illegal drug dispensing at weight loss clinics, Feb. 2, 2021 (USAO, Dist. Mont. News)	N				
61	Newsletter entitled "CARD News Fall 2009"	N				
62	Email from Tanis Hernandez to Vinicius Antao, Sept. 18, 2009	N				
63	Email from Tanis Hernandez to Vinicius Antao, Oct. 29, 2009	N				
64	Email from Tanis Hernandez to Vinicius Antao, Dec. 21, 2009	N				
65	Email from Tanis Hernandez to Jon Heberling, May 5, 2010	N				
66	Letter from Tanis Hernandez on CARD letterhead, May 10, 2010	N				
67	Email from Tanis Hernandez to Cheryl Williams dated May 18, 2010	N				
68	Email from Tanis Hernandez to Cheryl Williams, May 24, 2010	N				
69	Newsletter entitled "CARD News Summer 2010"	N				
70	Email from Tanis Hernandez to Jim Capp, July 12, 2010	N				
71	Letter from the CARD Board, Staff, Patients and Community addressed to Michael J. Astrue, Oct. 20, 2010	N				
72	Letter from CARD addressed to "MASA participant", May 23, 2011	N				

No.	Description	Δ's Objection (Y or N)	Date Offered	Date Reserved	Date Admitted	Refused/ WD
73	Letter from CARD addressed to "FLASH beneficiary"	N				
74	Brochure from the Medicare Pilot Program for Asbestos Related Disease	N				
75	SSA - POMS HI 00803.001	N				
76	SSA – POMS HI 00803.050	N				
77	Email from Tanis Hernandez to Sonya Petersen, June 16, 2016	N				
78	Email from Sonya Lloyd to Tim Stuckey, July 29, 2013	N				
79	Email from Tim Stuckey to Sonya Lloyd, Sept. 10, 2013	N				
80	Email from Sonya Hymas to Mary Karen Caraway, Feb. 18, 2015	N				
81	Email from Sonya Petersen to Mary Karen Caraway, March 28, 2016	N				
82	Email from Sonya Petersen to Kayla Friss, Dec. 4, 2018	N				
83	Email from Sonya Petersen to Stephanie Moore, July 8, 2019	N				
84	Website printout with the title "Health Care Benefits – Understanding Asbestos Related Medical Coverage"	N				
85	Email from Sonya Petersen to Mary Karen Caraway, Sept. 1, 2016	N				

No.	Description	Δ's Objection (Y or N)	Date Offered	Date Reserved	Date Admitted	Refused/ WD
86	Email from Tracy McNew to the CDC and cc: Tanis Hernandez, Sept. 30, 2015, with a 30-page document entitled "Libby Montana's Public Health Emergency, Asbestos Health Screening Center for Asbestos Related Disease Grant Number 5U61TS000179-04 Final Report"	N				
87	Email from Tanis Hernandez to the CDC and cc: Theodore Larson and Tracy McNew, Oct. 6, 2015, with 30 pages of the partial Grant Final Report and other documents	N				
88	Email from Jon Heberling to Tanis Hernandez, Nov. 18, 2011	N				
89	Email from Annie Miller to Jon Heberling, Jan. 23, 2012	N				
90	Email from Jon Heberling to Allan McGarvey, Apr. 10, 2012	N				
91	Email from Jon Heberling to Tanis Hernandez, Apr. 10, 2012	N				
92	Email from Jon Heberling to Brad Black, Sept. 26, 2012	N				
93	Document entitled "Grand Fraud Awareness"	N				
94	Excerpts of CARD's spreadsheet of Medicare payments received by CARD	N				
95	False Claims Act charge sheet	Y				

No.	Description	Δ's Objection (Y or N)	Date Offered	Date Reserved	Date Admitted	Refused/ WD
96	Noridian's Beneficiary Enrollment information for Medicare Pilot Program	N				
97	Noridian's instructions "How to Enroll in the Medical Pilot Program"	N				
98	Noridian's Benefits of the Medicare Pilot Program	N				
99	Noridian's Overview of the Medicare Pilot Program	N				
100	Noridian's Beneficiary Guide to the Medicare Pilot Program - Issue 1	N				
101	Noridian's Beneficiary Guide to the Medicare Pilot Program - Issue 2	N				
102	Noridian's Most Commonly Asked Questions about the Medicare Pilot Program	N				
103	Notice of Rule 30(b)(6) Deposition	N				
104	Diagnostic Differential Calculations	Y				
105	CARD's Initial Disclosure First Supplement	N				
106	Schedule A to Notice of Deposition with Dr. Frank's notes	N				
107	YouTube screenshot of Dr. Frank and Dr. Black	N				
108	Declaration of Max Baucus	N				
109	CARD's Statement of Undisputed Facts (Doc 99)	N				
110	155 Cong Rec S13490-02_Redacted	N				
111	CARD's Expert Disclosure	N				

No.	Description	Δ's Objection (Y or N)	Date Offered	Date Reserved	Date Admitted	Refused/ WD
112	155 Cong Rec S13647-03_Redacted	N				
113	Expert report by Dr. Black	N				
114	<i>Warboys</i> decision	N				
115	Bankruptcy Order in WR Grace	N				
116	CARD's General Ledger as of Dec 31 2014	N				
117	Heberling email to Tanis Hernandez re CARD Mortality Study, Nov. 18, 2011	N				
118	Dr. Black's email re External Advisory Group Update, Apr. 15, 2022	N				
119	Emails from McNew re CARD's Documentary Film	N				
120	OAO's Report on Dr. Black and CARD	N				
121	B-Reader Ethics	N				
122	CARD emails with Dr. Meyer	N				
123	No Diagnosis letter	N				
124	Kanne Bread re Judy P.	N				
125	Affidavit of Jeffrey Kanne MD	N				
126	B-reader contract termination ltr from UW Health to CARD	N				
127	Gary Heyne Medical Records	N				
128	Marsha McCann Medical Records	N				
128A	CARD Clinic Staff Website Page	N				
129	Gina Huffman Medical Records and Scripts	N				

No.	Description	Δ's Objection (Y or N)	Date Offered	Date Reserved	Date Admitted	Refused/ WD
130	Meeting Summary and Recommendations from National Jewish Health Faculty 4.26.2013	N				
131	Email from Dr. Black to Dr. Cecile Rose with 4.26.2013 Denver Meeting Agenda (Apr. 23, 2013)	N				
135	Subpoena to SSA for 30(b)(6)					
136	Declaration of Heather Hillman					
137	CARD's Revised Statement of Disputed Facts (Doc 110)					
138	Tera Whiteman email to Stephanie Shaw re EHH Medicare, Apr. 6, 2023					
139	Tera Whiteman emails with Tracy McNew re EHH Medicare and CARD, Apr. 2023					
160	Email re Baucus Mailing					
161	Baucus Mailing					
162	Subpoena Duces Tecum to Kootenai Drug Pharmacy					
163	Kootenai Drug Records (FCA017350-017354)					
164	Kootenai Drug's Medicare Payors List (FCA016393-016394)					
200	Social Security Act §1881A					
201	YouTube Video: 2019 CARD - Tracy McNew presents an overview of CARD					
202	Dr. Black's EHH form submitted to SSA					
203	Medicare Report 2013-2022					

No.	Description	Δ's Objection (Y or N)	Date Offered	Date Reserved	Date Admitted	Refused/ WD
204	Medicare Secondary 2013-2022					
205	CARD letters in support of disability					
206	Grant Award excerpts (USDOJ 000096-000097)					
207	Excerpts of CARD's Master Data Set					
208	Noridian Records (HHS001-015481)					
209	Granity Pharmacy Records (FCA017006-017349)					
210	Documents from Dr. Becker (FCA000001-000338)					
211	Mental Health Stretagic Plan - FY 2018-2020 (FCA016395-016409)					
212	Death Certificate – R. Siefke (FCA016410)					
213	Sample Pain Management Plan (FCA016411-016414)					
214	Email re Expert readers for the screening grant, Aug. 17, 2011					
215	Email from T. Hernandez to M. Lewandowski re EHH checklist question, Sept. 2, 2011					
216	Email between CARD and S. Lloyd at SSA, Apr. 2, 2012					
217	Emails between CARD and ATSDR re Screening instruments, May 2012					
218	Email from T. Hernandez to Suarez at SSA with Medicare Pilot Social Security Role 12_19_2013, Dec. 19, 2013					

No.	Description	Δ's Objection (Y or N)	Date Offered	Date Reserved	Date Admitted	Refused/ WD
219	Email from T. Hernandez to Lewandowski and Smith at SSA with Medicare Pilot Social Security Role 12_19_2013, Dec. 23, 2013					
220	Libby FOA Logic Model and Potential Performance Measures, July 16, 2014 (Draft)					
221	Emails from T. Hernandez to T. Larson (ATSDR) re Patient request, Aug. 14, 2014					
222	Emails from T. Hernandez to CDC re Grant 5U61TX000179-03 CARD Year 03 Final, Sept. 2014					
223	Emails from T. Hernandez to T. Whiteman at SSA re Working with CARD regarding EHH's, Feb. 13, 2017					
224	Email from CARD to Sonya at SSA w Brochure – Medicare Pilot Program for Asbestos Related Disease, Aug. 20, 2019					
225	CARD Screening Brochure – 2023					
226	CARD Newsletter – Spring 2023					
227	<i>MPH internships push students to develop as professionals</i> , by Rebecca Ayer, 2022					
228	<i>Report on Dr. Black and the Center for Asbestos Related Disease</i> by the Office of Appellate Operations Division of Quality (Dec. 5, 2019)					



No.	Description	Δ's Objection (Y or N)	Date Offered	Date Reserved	Date Admitted	Refused/ WD
229	Joyce L. – Patient Packet					
230	Keith C. – Disability File (USDOJ_019719-019782)					
231	Jason Clark – Disability File (USDOJ_019783-019851)					
232	Randolph C. – Disability File (USDOJ_019852-019898)					
233	Vivian D. – Disability File (USDOJ_020780-020858)					
234	Patrick G. – Disability File (USDOJ_021476-021581)					
235	Tanya G. – Disability File (USDOJ_021582-021756)					
236	Gary Heyne – Disability File (USDOJ_022383-022428)					
237	George H. – Disability File (USDOJ_022755-023054)					
238	Jeff L. – Disability File (USDOJ_024073-024196)					
239	Dale O. – Disability File (USDOJ_025941-026008)					
240	Michael R. – Disability File (USDOJ_026706-026740)					
241	Timothy S. – Disability File (USDOJ_027733-027776)					
242	Cindy W. – Disability File (USDOJ_028690-029179)					
243	Laurie W. – Disability File (USDOJ_029180-029338)					
244	Richard W. – Disability File (USDOJ_029739-029807)					
245	Kirk W. – Disability File (USDOJ_0029952-029997)					
246	Sharon W. – Disability File (USDOJ_029998-030117)					
247	Clayton A. – Patient Packet					
248	Sheila B. – Patient Packet					
249	Donna B. – Patient Packet					

No.	Description	Δ's Objection (Y or N)	Date Offered	Date Reserved	Date Admitted	Refused/ WD
250	Amanda F. – Patient Packet					
251	David H. – Prescriptions					
252	Regina H. – Patient Packet					
253	Carolyn J. – Patient Packet					
254	Kimberly L. – Patient Packet					
255	Shelley O. – Patient Packet					
256	Joyce L. – Patient Packet					
257	Email from S. Shaw to T. McNew re: EHH Medicare and CARD, Apr. 26, 2023					
258	CARD's Master Data Set Screening Field Key					
	Any other depositions exhibits					
	Any depositions taken in this matter together with any deposition exhibits					
	Any and all discovery responses served in this matter					
	Any and all documents produced by the parties in this matter					
	Any and all documents produced in response to subpoenas in this matter					
	Demonstrative exhibits					
	Any exhibits for foundation, impeachment or rebuttal					
	Any exhibits listed by Defendant					

No.	Description	Δ's Objection (Y or N)	Date Offered	Date Reserved	Date Admitted	Refused/ WD
	Any exhibits relied upon by experts					

## **EXHIBIT B**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

BNSF RAILWAY COMPANY,  
On behalf of THE UNITED STATES  
OF AMERICA,

Cause No. CV-19-40-M-DLC  
Hon. Dana L. Christensen

Relator,

v.

THE CENTER FOR ASBESTOS  
RELATED DISEASE, INC.,

Defendant.

**RELATOR'S AMENDED EXHIBIT LIST – MAY OFFER**

No.	Description	Δ's Objection	Date Offered	Date Reserved	Date Admitted	Refused/ Withdrawn
259	James K. – Medical Records (FCA016687-016966)					
260	James K. – Mayo Clinic Records (FCA016673-016686)					
261	Albertsons Pharmacy Records (FCA016969-016970)					
262	Costco Pharmacy Records (FCA016971-017005)					
263	NWCHC Pharmacy Records (FCA017366-017442)					
264	Rosauers Pharmacy Records (SDT 1-1123)					
265	Smith Drug Pharmacy Records (FCA017355-017365)					
266	Excel spreadsheet: CARD Clinic Medicare Claims and Summaries 2009-2013 (USDOJ 2432)					
267	Excel spreadsheet: CARD Clinic Medicare Claims and Summaries 2014-2019 (USDOJ 2431)					

No.	Description	Δ's Objection	Date Offered	Date Reserved	Date Admitted	Refused/ Withdrawn
268	Excel spreadsheet: DQ Analysis breakdown 05.19.20 (USDOJ 30250)					